

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: LEGISLATIVE & RULES

DATE: JULY 31, 2015

COMMITTEE MEMBERS PRESENT:

SUPERVISORS MONROE
GIRARD
SOKOL
WOOD
FRASIER

OTHERS PRESENT:

KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
MARTIN AUFFREDOU, COUNTY ATTORNEY
SARAH MCLENITHAN, DEPUTY CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER

SUPERVISORS CONOVER
DICKINSON
MERLINO
SEEBER
SIMPSON
TAYLOR

COMMITTEE MEMBERS ABSENT:

SUPERVISORS WESTCOTT
STROUGH

BRIAN LAFLORE, FIRE COORDINATOR/DIRECTOR, OFFICE OF EMERGENCY SERVICES
ROBERT BLAIS, MAYOR FOR THE VILLAGE OF LAKE GEORGE
LISA REID, REPRESENTATIVE FROM TNT FIREWORKS
AMANDA REID, REPRESENTATIVE TNT FIREWORKS
MELISSA GODUTI, REPRESENTATIVE TNT FIREWORKS
VINCENT SZABO, REPRESENTATIVE FROM PHANTOM FIREWORKS
DON LEHMAN, *THE POST STAR*
CHARLENE DIRESTA, SR. LEGISLATIVE OFFICE SPECIALIST

Mr. Monroe called the Legislative & Rules Committee meeting of the to order at 10:43 a.m.

Motion was made by Mr. Sokol, seconded by Mrs. Frasier and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Mr. Monroe advised the first item on the agenda concerned a referral from NYSAC (New York State Association of Counties) regarding legislation adopted by Rockland County regulating the use of drones. He indicated the local law authorized flying a drone over the following areas: an individual's own personal property; another persons private property with their consent; and public property when authorization had been granted. He apprised the local law prohibited drones from flying over jails for obvious reasons, the sheriff's complex and above churches. He added law enforcement use was exempt, as well as use in the course of a government agency. He remarked he believed it was inevitable that there would be misuse from drones. He mentioned it needed to be determined whether the Committee felt they should authorize the County Attorney to draft a local law regarding the use of drones within the County.

Ms. Wood remarked she felt if they were to draft a local law regarding drones it should include a provision exempting cases in which, through no fault of the operator, the drone became out of range and "flew away" from fines. Mr. Monroe mentioned he did not think the FAA (Federal Aviation Administration) regulations were involved as long as the drones remained below a certain height in the sky. Brian LaFlure, Fire Coordinator/Director, Office of Emergency Services, apprised the height limitation set by the FAA was set at anything above 400 feet. Mr. Monroe explained that this meant drones flying under 400 feet were unregulated if there was no State or Local Law in effect where they were being flown. He said the potential for issues to occur was present unless a local law was in place that regulated their usage.

Mr. Girard queried whether any other counties had similar laws in place that could be used for comparison, and Mr. Monroe replied he was unsure. He said they could table the matter until the next meeting so that they could research what other counties were doing. Mr. Girard apprised at first glance the local law seemed very comprehensive; however, he said, since he was not very knowledgeable on the matter he suggested they table the matter to allow the County Attorney to do some more research on it.

Mr. Girard asked whether the FAA had any policies in place that dealt with drones and Mr. Monroe replied affirmatively. He explained the FAA's policy only applied to drones that flew above 400 feet. Mr. LaFlure apprised that he had attended a drone demonstration with several public safety officials from the area, as well as representatives from the Town of Queensbury, last week. He mentioned a local helicopter pilot that was familiar with what the FAA was working on in relation to regulations for drones had indicated that new regulations would be released in the near future that would be very restrictive. He said some of the restrictions they were working on included prohibiting operation within six miles of an airport, and in some cases individuals would be required to have a pilot's license to operate them. Mr. Girard questioned whether Mr. LaFlure was aware of when these regulations would be put in place and Mr. LaFlure replied he was unsure, but was willing to perform further research on the matter if the Committee desired that he do so.

Mr. Monroe commented it appeared the only restriction applicable to drones being flown above 400 feet was they were prohibited from being operated within six miles of an airport. Mr. LaFlure advised many factors were involved that could potentially be considered too restrictive; however, he said, he was unsure at this time. He added public safety and law enforcement officials were fortunate enough to have some flexibility in terms of the restrictions. He pointed out drones were being used by both the private and public sector. He stated as an example many were being used by real estate agents to photograph properties.

Mr. Monroe mentioned he felt the correct course of action was to table the matter to allow the County Attorney to research what other counties and municipalities were doing in regards to regulating the use of drones. He said this would allow them to monitor the regulations in place by the FAA and whether they would be implementing more restrictive ones. Mr. Girard added he felt they may get some push back from advertising firms, as he had seen a number of nice advertisements that were put together with the assistance of drones.

Motion was made by Ms. Wood, seconded by Mr. Girard and carried unanimously to table the matter to allow the County Attorney to research what other counties were doing in terms of restrictions on drones and report back to the Committee.

Moving along, Mr. Monroe advised the next item on the agenda pertained to legislation forwarded by Delaware County "*Urging State Representatives to Amend the New York State Electronic Equipment Recycling and Reuse Act*". He said the resolution pointed out that the New York State Electronic Equipment and Recycling Reuse Act was in place to assist local governments with managing electronic waste stream by relying on manufacturers to fund a recycling infrastructure and relieve municipalities from the recycling and end-of-life management costs. He mentioned he felt this resolution was brought forward due to many towns throughout the State being faced with the costs of electronics recycling. He apprised the resolution called upon the Governor and State Legislature to improve the current law intended to build toward the long-term goals of creating a more stable and comprehensive manufacturer implemented electronics recycling infrastructure by taking action to strengthen communication amongst stakeholders and promote the adoption of the Proposed Statutory Changes to the Act to provide for year round, no-cost collection of electronics,

consistent with convenience standards for both rural and urban areas. He explained this would take the burden off of the local government and place it back on the manufacturer.

Mr. Dickinson queried what had changed that stopped recycling companies from accepting electronics. Mr. Monroe advised there used to be companies that accepted electronics for no charge; however, he noted, this was no longer the case as they had put into place fees for recycling certain electronic items. He mentioned he did not think the manufacturing infrastructure that was supposed to be in place ever occurred, as the proposals he had reviewed had all included charging fees for recycling electronics. Mr. Dickinson pointed out this meant the issue was with the manufacturers to which Mr. Monroe replied he believed that was the correct assumption. He surmised that they would like to pass the cost of recycling on to the State rather than having the local government be responsible for it.

Mr. Dickinson remarked that he felt the manufacturers should be responsible for the cost. He apprised the vendors who had collected the Town of Lake George's electronic equipment had been interested in salvaging some of the precious metals and other valuable parts of the equipment. He said this meant they were benefitting from collecting them.

Martin Auffredou, County Attorney, said the law required manufacturers to provide guidance and instructions on how and where to dispose of electronic items at the time of purchase. He mentioned they were obligated under the law to provide centers which were reasonably convenient to consumers for return of these items. He indicated he was unsure whether or not there was a charge for this, as he could not specifically remember whether the manufacturers were prohibited from charging fees; however, he said, it was possible this was built into the price charged when the item was purchased. He reiterated the manufacturer was obligated to provide guidance and instructions on how and where to dispose of electronic items to consumers at the date of purchase, but he was unsure whether they were carrying out this obligation.

In response to a question by Mr. Dickinson, Mr. Auffredou advised he was unsure whether manufacturers such as Sony and Samsung were responsible for the recycling of their own products or whether they were combining their efforts. He mentioned his understanding was whether it was Sony, Best Buy or whoever the case may be there was supposed to be a regional reasonably convenient center for Warren County residents to return their items to.

Mr. Monroe noted the resolution from Delaware County stated that the manufacturers had set goals for the recycling of their products. He continued, once the goal had been met they no longer provided financial support to continue the collection programs. He said this meant if they reached the goal they set prior to the end of the year the expense for the remainder of the year would fall upon the local governments. He remarked the issue was that the current law did not prevent this expense from being shifted onto the local governments.

Mr. Dickinson advised he felt the County should make an effort to contact some of the electronic manufacturers to determine whether they had a program in place, and if so, what it was. He stated there may be a recycling center in place they were unaware of which they could send all the electronic equipment collected in Warren County to for a minimal fee.

Mr. Girard remarked a local individual whose business related to recycling electronics was forced to close due to a change in the payment structure or regulations which made it impossible for him to sustain the business. He pointed out over the last two months this individual had removed the recycling trailers that had been placed at the local landfill for collection of these items. He said his

understanding was the change in the payment structure was made to ensure that the responsibility for recycling would be placed on the facilities where the products were sold, such as Sears, Best Buy, Walmart, etc. He stated this meant the facility where the electronic product was purchased would be responsible for setting up some type of recycling because that was where the item was purchased; however, he said, he was unaware of whether they were following through with this. He remarked there had been a significant change over the last few months in regards to electronic recycling, as many vendors had gone out of business which in turn made it more difficult for the County and the individual municipalities to determine how they were going to handle these items.

Mr. Merlino commented he believed due to the decrease in the size of television sets manufacturers were no longer supplying the rate necessary to cover their poundage. He said this was why electronics manufacturers were going out of business. Mr. Monroe remarked it appeared they needed to gather additional information from the NYS DEC (New York State Department of Environmental Conservation) and the manufacturers before they could take action on the matter; therefore, he suggested, they table the matter until they received such information. Mr. Girard queried whether they should have Mr. Auffredou research the matter further and Mr. Auffredou confirmed he would do so and report his findings.

Motion was made by Mrs. Frasier, seconded by Ms. Wood and carried unanimously to refer the matter to the County Attorney for further review.

Next, Mr. Monroe stated was a referral from the June 19th Board Meeting relating to a request to revisit discussion on legalization of safe sparkling devises in Warren County. He asked whether any Committee members would like to comment on the matter and none replied. He said he was aware that Robert Blais, Mayor for the Village of Lake George, had gathered some input from individuals residing in the Village. He asked whether Mr. LaFlure would like to address to Committee and Mr. LaFlure replied he was present at this point in the meeting to answer any questions.

Privilege of the floor was extended to Mayor Blais, who apprised as a disclaimer that he was born on July 4th and they would be hard pressed to find someone who loved fireworks as much as he did. He mentioned that Lake George funded 21 firework displays a year which were facilitated by a professional trained company certified by the State. He reminded the Committee this was the first year firework sales were permitted in New York State. He apprised he fielded several complaints and was aware of several unsafe situations relating to fireworks, such as the house fire in the Town of Kingsbury, the truck fire in the Town of Horicon, a man that sustained a mortal head injury in the State of Maine, a New York Giants football player who suffered the loss of some fingers and an adult in Lake George who threw some snappers at the horses spooking them and causing them to bolt over the median, which could have resulted in a serious accident. He remarked he was unsure what the common sense was for the State to permit the sales 30 days prior to July 4th and 10 days before New Years, as they had enjoyed many years in the region without legalized fireworks. He questioned what would be next, 3 days before Valentines Day, 6 days before Labor Day, etc. He continued, if they were going to legalize fireworks why was it only done for such a limited period of time. He stated that putting these devices in the hands of untrained and unskilled people would result in circumstances arising that would cause issues for others. He said he did not foresee any redeeming value in passing a law after all these years that allowed people to purchase fireworks 30 days before July 4th and 10 days before New Year Eve. He mentioned if anyone would like to see a good fireworks show that was done safely, he would recommend visiting Warren County as their municipalities had some of the best shows in the world, put on by some of the best firms in the Country. He pointed out people were disturbed and surprised by fireworks, they littered the streets and created all sorts of issues, especially in a community that was a resort area such as Lake

George. He requested that the County Board review the Local Law again and reconsider what occurred just in the initial year that fireworks were permitted.

Mr. Dickinson commented as the Supervisor for the Town of Lake George he wholeheartedly agreed with Mayor Blais. He said he did not see the benefit of the local law, and noted that the County had the option not to opt into the State Law. He remarked he strongly believed the County should opt out of this law, as he saw no benefit to the County, its citizens or the tourists. He pointed out there was no need to have more fireworks, as there were a tremendous amount of shows available to watch throughout the County. He stated regardless of what others believed, he felt fireworks were a nuisance and was in favor of rescinding the local law that permitted the County to opt into the State Law.

Lisa Reid, Representative of TNT Fireworks, apprised that they were the largest manufacturer and distributor of fireworks in the United States. She mentioned she was one of the drafters of the New York State Law regarding fireworks. She said although it may appear to some as a "silly piece of legislation" it was not, as the reason the sale period was set at 30 days prior to July 4th revolved around sales as opposed to use. She advised the use was to celebrate birthdays, holidays and backyard fun for everybody. She pointed out the purpose and what they had viewed over the course of time was that it reduced individuals desire to travel out of State to purchase more dangerous fireworks. She added they had observed this over the entire United States where the legislation had passed. She reported what they did specifically in this legislation was permit very safe and sane sparking devices. She indicated they, as manufacturers, felt terrible about the unfortunate circumstances that occurred such as the house fire in the town of Kingsbury and the incidences in the Village of Lake George that warranted the desire to review the law in today's meeting. She emphasized it was never their intention for anyone to be harmed or for any unfortunate incidences to occur, as safety was their #1 priority. She said they could not exist unless their purpose revolved around safety, which they took very seriously. She apprised their company provided safety education programs across the Country in every state, some of which were taking place in New York. She remarked safety education programs were required whenever new legislation was put into place regarding fireworks. She stated they were providing educational programs in New York State to Code Enforcement Officials, in the school systems and with towns and villages. She mentioned she would be participating in an educational presentation regarding the regulations of this particular legislation with the Director of Building Codes for New York State on August 25th in Middletown, New York at the meeting for the Association of Towns, Villages and Cities. She remarked they would be happy to provide that same presentation to Warren County, as well.

Ms. Reid noted the "snaps or poppers" Mayor Blais referred to that frightened the horses were not something that had been legalized under this legislation, as these products had been legal in the State for a number of years. She continued, it had been included in the legislation for clarification purposes; however, she pointed out, they had been sold at novelty stores for awhile. She reiterated that it appeared statistically across the Country when this legislation was passed individuals stopped traveling to bordering States where much bigger and more dangerous products could be purchased, such as the product that caused injuries in the State of Florida, as well as the very serious injury in Maine. She noted those were not products that would ever be legal in New York State, as there was nothing aerial or close to something that would cause those types of injuries legalized in New York. She mentioned the statistics were supportive of the fact that if you provided individuals with a safe, enjoyable product to celebrate backyard fun and family holidays that individuals would be respectful. She commented she felt the issues that had occurred locally were part of "growing pains" of a new piece of legislation. She stated they believed they could handle the concerns stated if they were given the opportunity to work with the County on education individuals to help make this successful.

She informed they had an incredibly prosperous year for the State both in tax revenue and jobs to the County, some of which was allocated to the State Office of Fire Prevention Services for continued education revolving around these types of topics. She remarked that they hoped the County would continue to move forward and provide them with the opportunity to rectify and deliver education so that they wouldn't have to repeal something they felt in the end would benefit the community and families as well as provide jobs and sales tax revenue for the County.

Mr. Monroe requested that Ms. Reid explain what was legal before the legislation was adopted and what was specifically allowed and disallowed in the legislation because he felt a number of individuals were confused. Ms. Reid apprised she believed part of the issue was individuals were unaware of what was and was not legal, which was part of the education. She explained prior to the adoption of the legislation, novelty devices were legal such as those commonly referred to as "snaps or poppers", similar to those involved in the incident with the horses in the Village of Lake George. She apprised these had always been legal but were not clearly defined in statute, as were the upside down champagne glasses that had paper confetti come out of them when you pulled the string that were popularly used on New Years Eve, weddings, etc. She said the issue was because these items were not defined in statute they could not be shipped into New York; therefore, she stated, they needed to define them in statute.

Other items that were legalized, Ms. Reid advised, were wooden sparklers, not metal sparklers. She pointed out wooden sparklers burned at 1,200 degrees, the same as a blue tip match which were not outlawed. She remarked they specified that it was a wooden sparkler so that it was not something that was left on the ground with a very hot temperature that a child could step on. She pointed out the wooden sparklers burned similar to wooden incense; therefore, she stated, they burned completely out. She reported ground based sparklers which were cone and fountain based sparklers were legalized, as well. She explained these types of sparklers remained on the ground, and did not move aerially. She mentioned they had the same sparkling, crackling and colorful effect as a handheld sparkler but they were on the ground. She noted these were the only items that had been legalized; she clarified no aerial fireworks, bottle rockets or M80's had been legalized, nor had any reloadable units, such as the one that caused the New York Giants football player to blow his fingers off.

Mr. Monroe stated he had observed a sparkling device that looked like a roman candle type firework that launched about 20 feet into the air. Ms. Reid apprised roman candles actually propelled into the air; however, she noted, none of the sparking devices legalized in the State went off of the ground. Mr. Monroe questioned what the product he observed for sale was, reiterating that it looked similar to a roman candle. Melissa Goduti, Representative of TNT Fireworks, responded what Mr. Monroe was referring to was a California Candle which just sparked, as none of their sparkling devices made a boom sound or flew into the air. Ms. Reid commented if individuals overheard fireworks that made a loud boom noise it could be someone was lighting off fireworks they purchased in another State that sold the larger fireworks such as Pennsylvania or New Hampshire.

Mr. Merlino remarked that he had not fielded many complaints from the residents of the Town of Lake Luzerne; however, he said, some residents had voiced their concerns that no one had considered the effect of fireworks on their animals. Ms. Reid pointed out they sold pet friendly products; however, she said, she was hesitant to state that more than likely pets struggled every year on July 4th. She pointed out her cat freaked out whenever there was a thunderstorm so she was sensitive to this concern. She added they had observed across the Country that the first year was a "novelty year" which wore off over time. She stated another observation she had made was that when the holiday fell upon on a weekend there were many more celebrations than when it fell upon

a weekday. She continued, another factor that contributed to the amount of celebration with fireworks was the weather because if it was raining individuals remained indoors, whereas if it was hot and sunny individuals would be more inclined to be outdoors celebrating. She commented she believed since July 4th was on a Saturday this year individuals carried the celebration through the entire weekend.

Mr. Taylor advised he was unsure how he would vote if this was carried forward to the full Board; however, he said, he would like to make a few comments. He stated he had received an email from one of the constituents that lived in his district in the City of Glens Falls regarding a complaint about fireworks. He apprised that it appeared the bulk of the complaints revolved around noise. He pointed out according to Ms. Reid the products they sold were sparking devices that did not produce the loud boom noise individuals were complaining about. In regards to enforcement, Mr. Taylor apprised that the County did not enforce the laws they had in regards to fireworks, as he had observed a number of illegal fireworks going off over Glen Lake for many years now and nothing was done about it. He stated it was bothersome to him that permitting sparking devices was not going to put a stop to individuals having in their possession the illegal types of fireworks since it was not being enforced. Mr. Monroe remarked that he understood Mr. Taylor's complaint, as he had observed the same type of fireworks being set off around July 4th on Loon Lake, where he lived.

Mr. Girard stated he was not in attendance at the April 17th Board Meeting when the majority of the Board approved Local Law No. No. 3 of 2015, which permitted the sale of sparking devices in Warren County. He said he was unsure whether he would have been supportive of adopting Local Law No. 3 at the time due to his background with the City of Glens Falls Fire Department and his conversation with the Chief of the department; however, he advised, he had a minuscule amount of levity with his understanding of what the fireworks companies produced. He remarked what he observed within the City of Glens Falls was due to their density they were having issues with the launching of different devices which he was aware was not part of the legislation. He emphasized that he hoped that illegal fireworks had not been sold in any of the many tents that were set up all over the region. He informed it appeared to him because the County had adopted the Local Law it gave individuals permission to launch those products. He commented the constituents in his neighborhood felt it appeared to be lawless at times due to the fact that the fireworks were being launched from one backyard and flew over neighboring homes which resulted in a tremendous amount of concern. He added since there was so much of this going on it would have been impossible to enforce anyway. He mentioned the amount of tents that were set up to sell fireworks and the number of illegal fireworks that were being sold created an issue that they had not intended to occur when they adopted the Local Law. He remarked he was nervous going forward with the permissibility of what the law appeared to be linked to, as he felt individuals were under the misconception that the law permitted them bring the illegal fireworks from other States back into New York to launch them.

Chairman Geraghty mentioned once the law was adopted the perception of individuals was that it was permissible to light off any type of fireworks. He remarked he was troubled by the fact that they had not received many complaints about "poppers" until they were permitted to be sold on every corner. He advised he disagreed with how the selling had been portrayed to them at the August 17th Board Meeting, as they had been under the impression the fireworks would be sold in stores but then suddenly tents were set up wherever they could get a permit to set one up and sell fireworks from. He concurred with Mr. Girard's statement that it appeared individuals felt the law gave them the right to launch all types of fireworks. He added clarifying in the law that poppers were permitted created a problems because rather than only being sold in novelty stores they were offered for sale in all of the tents for that certain period of time. In regards to fires, he commented

he did not blame that on sparkling devices, as it was the responsibility of the homeowner to ensure they were being used and disposed of in a safe manner. He pointed out the examples of injuries provided earlier in the meeting had all been of circumstances associated with illegal fireworks and not sparkling devices, as these types of injuries would not occur from the use of sparkling devices. He reiterated he felt the residents of Warren County felt since the law had been adopted it gave them the right to shoot off illegal fireworks; therefore, he said, the local law enforcement did not have the manpower required to properly enforce whether the fireworks being used throughout the County were legal or not.

Mr. Dickinson remarked he always told his children and grandchildren "if it moves it's dangerous" and he said he felt the same way about sparkling devices. He continued, the fact that sparkling devices had to be lit with a match supported his notion that they were dangerous. He advised that he understood the difference between fireworks and sparkling devices; however, he felt strongly that due to the level of inconvenience and danger associated with them they were not necessary and permitting the sale in Warren County provided no benefits. He suggested they rescind Local Law No. 3 which permitted the sale of the sparkling devices in Warren County. He pointed out his experience with sparkling devices supported the fact that most usage at some point involved children. As an example, he stated a child's face was engulfed with sparks while using a sparkling device at a July 4th party on Sacandaga Lake he had attended. He reiterated his sentiment that since matches were required to light sparkling devices they were dangerous and he did not think the County needed them. Lastly he commented that poppers were an issue that should be addressed. He suggested the full Board research what law legalized them and what would be necessary to make them illegal.

Ms. Seeber apprised she represented the Town of Queensbury along with 4 other Supervisors. She apprised this was her first term as a Supervisor and probably the first time they had been given the option as to whether the County wanted to participate in the law or not by the State. She recalled that representatives from the fireworks companies had stated at the April 17th Board Meeting that they would go above and beyond their usual practices in Warren County and hand out safety brochures, and they had also apprised that their companies did a great job with educating individuals, as they had stated earlier today. She mentioned that this felt like "the same song and dance", as they had indicated how important the educational aspect was at the Board Meeting but no educational seminars were offered in Warren County nor were the safety brochures available at a local store that was selling the sparkling devices during the first day they were on the market. She informed her impression was that the safety brochures would be specific to TNT fireworks; however, she pointed out, after several phone calls, emails and some correspondence back and forth they finally received a box of flyers overnighted to the TNT firework locations specifically. She said these flyers consisted of photo copies of the warnings from New York State regarding how to handle sparkling devices and not anything above and beyond what was referenced on the New York State website. She commented she thought this was an important lesson for her personally, as well as for the entire Board, as it had become something much greater than what they had anticipated. She concurred with Mr. Dickinson's statement that injuries had occurred as a result of sparkling devices. She apprised she had shared a text she received with some of the Supervisors that contained a picture of a 16 year old who sustained a third degree burn from a sparkling device. She informed she would be interested in obtaining a report from the Glens Falls Hospital chronicling the injuries they treated that were the result of sparkling devices. She added she had visited many of the tents that popped up all over the place and had been surprised to see what appeared to be beer cans sparks coming out of them. She questioned what type of message this was sending to the teenagers that observed them in the tents. She indicated the original legislation had called for the sparkling devices to be stored behind a closed counter so patrons could not touch them; however, she noted, this had been changed. She remarked that the storage of sparkling devices created a major issue

for the local fire departments, as they had indicated at the Board meeting they would not be stored all year long but now they were. Ms. Reid interjected that this was absolutely not true, as the sparkling devices were not stored all year round. Ms. Seeber advised she would defer to Mr. LaFlure to address this because they had a copy of a memo that was sent out on June 22nd stating that they could be stored year round. Lastly, she apprised just because everyone else was doing it didn't mean the County had to partake in it, as well. She indicated they were hearing from experts in the community and she said Mr. Auffredou could speak to the discussion he had with law enforcement on whether this was really worth it. She reported what needed to be determined was if it was worth it for the community. She said she was glad to hear the fireworks companies speak about their education efforts, but had been readily disappointed when they did not occur.

Ms. Reid apprised that they could do more in terms of education and she concurred that part of the issue was due to a learning experience for them, as well. She indicated it was very difficult for them in terms of the timing of when this all came together, as they had to adhere to regulations in order to get organized and running had occurred at the same time that the selling period started. She continued, since it was the first year they had struggled to get all the necessary items that they needed to get in stores, to set tents up, to get people products, to get jobs for folks, etc. She stated a lot of their work was not-for-profit, as they had teachers managing tents that were raising money for their schools. She pointed out they had an abundant amount of work going on throughout the State in addition to opening up counties which she could attest to since it was largely her responsibility and had not been easy to accomplish. She stated opening up counties at the same time you were trying to get product to market, as well as trying to do education, was not undemanding. She remarked they were committed to doing a better job. In terms of the safety tips, she said regardless of whether they were from the New York State website or from TNT they were about the same, as there would not be much difference in them; however, she opined, there was no question they could do more in the community.

In regards to the stores such as Walmart and Kmart that offered their products for sale, Ms. Reid apprised even though they were supposed to be placing a safety flyer in the bag with every sale of the sparkling devices they could not force the stores to carry through with this. She reported they would do a better job to ensure that the flyers were stapled to the receipts with every sale that was made in one of their tents. Vincent Szabo, Representative from Phantom Fireworks, interjected that they had carried out the same practice in all of their tents, as well. He guaranteed this did occur at their tent located in the Town of Queensbury.

Ms. Seeber advised she had personally visited some of the tents and purchased sparkling devices to compare the difference between the wood and metal ones. She said in regards to the bags, she reported some companies had placed tips in the bags which was great; however, she noted, they were not always stapled to the receipt. She remarked in terms of the support from the full Board, part of that had been granted due to the promise that they would go above and beyond in terms of education but this had never been carried through. She stated although it was not specifically written in the Local Law it was a concern that needed to be addressed.

With regard to injuries, Ms. Reid stated it was never their intention for anyone, especially children, to be injured while using their products. Mr. Szabo pointed out injuries had a negative impact on their business. Ms. Reid apprised the law was very specific in regards to sales, as it required individuals to be 18 or over in order to be eligible to purchase sparkling devices. She continued, any child should be supervised when they were using them. She pointed out a number of examples of what adults allowed their children to do with proper parental supervision, such as roasting marshmallows over an open fire and blowing lighted candles out every year on their birthday cakes,

etc.

Ms. Goduti advised that TNT Fireworks only had two locations in the region, one of which was a tent located in the Walmart parking lot in the Town of Queensbury and the other was a store in Lake George. She stated she had visited competitors locations to ensure there were no illegal fireworks being sold there. She continued if she found they were selling illegal fireworks she immediately reported them to the State Fire Marshall so they could shut them down for violating the law. She stated she did not want nor did she tolerate having any illegal fireworks in their tents or stores. She commented they had put an abundant amount of effort into organizing everything; therefore, she noted, they would not want it to be ruined by having someone sell illegal fireworks. She remarked anyone with fireworks that made a loud boom noise or were aerial would have been purchased out-of-State because she inventoried every location. She apprised there were a lot of gift shops in both the Town and Village of Lake George that were selling sparkling devices without permits from anywhere to be able to do so. She stated she would be happy to educate the local law enforcement and fire departments on what to look for when they were completing inspections. She reiterated a number of the gift shops in the Village and Town of Lake George were selling items they were not authorized to sell which she noted were not temporary locations, as their permanent place of operation was in Warren County. Moving forward, she suggested that the business owners be educated on what permits were required and what they were allowed to sell because neither their company, nor Phantom Fireworks, had supplied these businesses with the products.

Mr. Conover apprised a dilemma for both the Town of Bolton and the Village and Towns of Lake George was the bulk of the individuals gathered on the streets during this time period were tourists that were migrating to the parks with the sparkling devices. As an example he stated, when tourists were on their way to the Lake George fireworks show they stopped at one of the many tents and purchased sparkling devices to bring to the park with them. He remarked this made it very challenging to keep the sparkling devices out of the streets, sidewalks and parks since there was such a large density of people in the region during this time period.

Mr. Taylor queried whether the tents required permits and if so who granted them and Mr. Auffredou responded he felt this was part of the confusion with the implementation. He apprised he never would have envisioned tents all over the County, as he was taken aback by how many fireworks tents were erected along Route 9 in the Town of Queensbury alone. He stated he had fielded a number of calls from Town Supervisors on how the tents could be regulated. He mentioned he did not see anything in the State law that said a local municipality could not enforce their transient merchant law in relation to these tents; however, he informed, there was a difference in opinion about that, as he had read some correspondence that indicated the State law trumped local municipalities as far as enforcing their local laws. He remarked he found it astonishing that someone would even take the position that the State had such a compelling interest in the sale of fireworks that it would somehow undermine the municipal home rule law of where the tents could and could not be erected. He indicated his position was and continued to be that municipalities absolutely should have the right to enforce their local laws with respect to permitting where these enterprises go. He added he had also heard that even if you permit them you could not charge them a fee and he felt this should not be the case. He continued, any other transient merchant in a town was required to go through a permitting process and could be charged a fee; therefore, he questioned, why there would be an exception for a tent that sold fireworks. He stated it appeared that some clarification was required from the State on that very issue. He apprised his position would be that municipalities should absolutely be allowed to regulate where and when public safety, public welfare, ingress, egress just like most municipalities did with any other transient use. He informed that it appeared that some of the Supervisors would like the Local Law repealed, which was done through

the enactment of a Local Law. He pointed out there was some time to carry this out, as the next window for sales was not for several months. He added what the Committee typically did was send a message to State Legislators, the Governor and the Association of Counties that this law needed to be reviewed, as it was presenting some problems for the County on the local level. He emphasized that repealing the Local Law would not repeal the use in Warren County; however, he stated, it would repeal the sale of these devices in Warren County which as some of the Supervisors including the Chairman had pointed out would likely reduce the use of these devices in Warren County. He mentioned this was a policy call for the Committee and for the full Board.

Mr. LaFlure advised he had been biting his tongue throughout the discussion; however, he apprised, he had a few comments he would like to make. He noted it was not up to him whether sparkling devices were sold but he needed to pass along some information to the Committee. He read aloud a correspondence that came from the NYS OFPC (New York State Office of Fire Prevention and Control) from the State Fire Administrator on June 22nd that stated the following: "The general law business law 392-J stated the sales of these devices can be from June 1 through July 5th and December 26th through January 2nd. Only during these times can the product be sold in participating counties; however this does not prohibit the storage of these devices in retail stores year round. This also does not prohibit the transport of these devices through counties that have not opted in. Consumers may use the products year round". He pointed out this is where the information regarding storage and how stores could stockpile them and not necessarily be returned to the manufacturer came from.

Ms. Reid interjected that TNT Fireworks was the sole company that sold in any retail store with the exception of a few that featured Phantom Fireworks products in the entire State. Mr. LaFlure apprised he understood their policy but wanted them to be aware of where they got their information from, as the correspondence was transmitted to all of the Fire Coordinators in the State. Ms. Reid remarked as a company that was in 43,000 stores across the Country they left no product in any retail store after the sale period was over. Mr. Szabo added that nothing was stored in any location in any of the Counties that opted in throughout the State. Ms. Reid advised that between July 6-8th they removed every piece of unsold product from the stores.

Mr. LaFlure apprised this was not the case with consumers, as they stockpiled the fireworks in their homes, basements and garages. He mentioned this was an issue for firefighters. He stated although they would not self combust now it could become a possible issue in the future. He stated he had been at the house fire in the Town of Kingsbury where fireworks were involved, as well as the vehicle fire in the Town of Horicon both of which occurred due to improperly disposing of spent sparkling devices. He remarked he believed it was necessary for them to address proper disposal procedures, as the safety tips only addressed usage. He said he did some testing and set the devices off and video taped it. He reported it confirmed that they did do what they said they would do on the packaging; however, he informed, his concern was 20 minutes after they activated the fountain it was still smoking so he doused it with water to put it out. He pointed out this was what caused the house fire in the Town of Kingsbury, as well as the truck fire. He commented these were the types of issues they were having. He commented he believed more was needed than just attaching a brochure to the receipts such as some form of public education. Mr. Szabo and Ms. Reid both indicated they would be glad to educate the public regarding this, as it was a concern for them, as well.

Lastly, Mr. LaFlure remarked that any type large amounts of people, alcohol and gun powder in the same place would result into some type of issues occurring. He mentioned the issue in Warren County was specific to certain areas that had large crowds, horses, etc. He stated he was not

indicating there was a right or wrong way to fix this; however, he said, there was no control over who purchased or sold them. He pointed out a drunk person could purchase them from a novelty store in Lake George and proceed to light them off on the sidewalk while a large number of people walked by. He reiterated the issue was not with the sale but rather with who was purchasing them which could not be controlled unless they were not allowed to be sold in the County. He pointed out an individual shopping in Walmart probably would not purchase them if they were not located right near the register where they could be enticed to purchase them.

Mr. Monroe advised he felt they had heard enough of the pros and cons to put the Committee in a position to make a recommendation to the full Board. He stated the options were to do nothing, in which case the law would remain in place as it was now, or to recommend to the full Board that the Local Law be repealed

Mr. Sokol remarked he respected all of his comrades for their comments; however, he said, he believed due to the timing the representatives from the firework companies had been unable properly provide the educational materials they had promised. He mentioned he believed this matter should be revisited but there was plenty of time before the next sale period commenced. He commented in regards to Mr. Dickinson's remarks earlier about the child having sparks fly on her face, he believed that ultimately it was the responsibility of the parents to supervise the children using the product. He informed he did not feel the manufacturers should be held responsible for the stupid mistakes people were making with fireworks. He reiterated that he felt the matter should be revisited prior to the next sale period taking place. He informed he believed they were missing out on potential sales tax revenue, as well.

Mr. Monroe asked whether anyone would like to make a motion to repeal the Local Law to which he got no response. He apprised the matter could be revisited at the August 21st Board Meeting.

Mr. Girard stated that after listening to the arguments made by the representatives of the fireworks companies and how they managed their businesses it was apparent to him that what he had discussed earlier was not in relationship to these companies; however, he noted, if the same issues occurred next year it left them no choice from his perspective than to repeal the law. He advised he was willing to move forward and educate law enforcement and the public more on the matter.

Mr. Monroe apprised Mr. Auffredou requested that they ask the manufacturers if they had any information from other counties that were considering repealing or any requests to modify the State Legislation. Ms. Reid reiterated that they would be putting on a presentation in Orange County regarding the regulations and clarification on the tents, permitting and items such as this. She stated she would be happy to request that the Director of Building Codes for New York State come to Warren County to do the same presentation for the full Board and any other interested parties. She stated Orange County was the only County that had requested this type of education from them so far; however, she surmised, they were going to provide this presentation to as many counties who had opted into the law as possible. She remarked they were preparing to go before the Governor and request that the law be State-wide to avoid the types of issues it was causing.

Ms. Wood advised that the issue was brought forward at last week's meeting of the Intercounty Legislative Committee of the Adirondacks. She stated they had inquired with NYSAC (New York State Association of Counties) whether any other counties were considering repealing the local law to which they were informed no counties to NYSAC's knowledge were considering repealing the local law and in fact there were counties that did not opt in that were considering adoption because their neighboring counties had. Ms. Reid pointed out that Erie, Onandaga, Monroe, Albany, Nassau and

Westchester Counties were all moving forward to adopt the law.

Mr. Thomas questioned whether the Town and Village of Lake George could have the option to say that fireworks could not be sold or used there since they seemed to be the ones with the most issues regarding fireworks. Mr. Monroe reported his understanding was that you could not pick and choose where they were sold, as the law covered the entire County and Mr. Auffredou concurred. Mr. Thomas commented this may be why the law should be modified. Mr. Monroe pointed out the Committee could take a stance on that and suggest the current law be modified.

Mr. Dickinson remarked he felt they had supported the fact that there were Supervisors who were not on the Committee that were interested in discussing this matter further. He stated he would like the Committee to make a recommendation to place this back on the agenda to at least discuss this at a full Board meeting. Mr. Monroe pointed out the matter was referred to this Committee from the full Board. Mr. Dickinson apprised that he understood that but felt it should be placed back on the agenda for the Board Meeting. Mr. Auffredou apprised that Mr. Monroe would report about this thorough discussion during the Committee meeting reports. He stated at that point in time it was Mr. Dickinson's prerogative to take up anything he would like to be taken up at that point in time. Mr. Monroe informed it could certainly be discussed at the full Board meeting. Mr. Dickinson asked whether he could propose a resolution during this time to which Mr. Auffredou responded there was a procedure in place to waive the Rules of the Board and then proceed with presenting the resolution. Mr. Monroe indicated at that point they would be requesting that Mr. Auffredou draft a local law which would require a public hearing at the next Board Meeting.

As there was no one who wished to make a motion regarding the matter Mr. Monroe informed they would proceed to the next item on the agenda which concerned a referral from the July 17th Board Meeting requesting to revisit discussion on resolutions previously presented by Mr. Robert Schulz at the March 9, 2015 Committee Meeting. He stated he believed Mr. Auffredou was prepared to make a recommendation on these matters.

Mr. Auffredou apprised this was referred back as indicated there was a matter of two resolutions that had been pending in some form for several months. He indicated it occurred to him that as a result of the discussions that were had at the last Board Meeting which he was not at but where Mr. Schulz had made a presentation. He committed to contacting Mr. Schulz as County Attorney and inviting him to meet with him. He stated he had indicated to Mr. Schulz when he ran into him at the Saratoga County Fair a willingness on his behalf to re-visit these resolutions and attempt to revise them to address what he referred to as the tone of the resolutions. He continued, his concern all along was not the substance of the resolutions per se but rather the resolutions as presented in draft form by Mr. Schulz took the position that they were non-binding or whatever the case may be found that certain laws including the Constitution had been violated. He stated he had taken the position as County Attorney that he did not feel this was in the purview as a County Committee or Board of Supervisors to make such a declaration that something was in direct violation of the Constitution or in violation of law. He remarked he felt that was a matter for a court to decide, not an elected political body such as a County Board of Supervisors.

All that being said, Mr. Auffredou reported he did go back and revised the resolutions and met with Mr. Schulz earlier this week presenting him with the revisions. He said one of the resolutions said one of resolutions as presented addressed Social Studies Learning Standard for Civics, Citizenship and Government while the other as presented addressed the Common Core Standards Initiative in regards to the Race to the Top Program and the Partnership for Assessment of Readiness for College and Careers Consortium. He stated that Mr. Schulz was very passionate about these matters. He

apprised these resolution in his opinion as revised accurately recited facts and the law; however, he noted, neither one of them made an affirmative finding by the Board or the Committee that any laws or particular laws including the Constitution had been violated by any entity such as the New York State Board of Regents, the State Education Department, State Legislator, etc. or that New York did or did not do anything as the case may be. He commented he felt this was important because as a matter of policy he now had no issue if the Committee wanted to move these resolutions forward as presented, as it was their prerogative to do so. He continued, he did not want to be the one at this point who was standing in the way of the Committee taking action on either one of them. He mentioned these were obviously significant matters that were important to Mr. Schulz and other arenas, as well. He informed he thought this was an issue that needed to be addressed in some form or fashion. He commented since it was referred back to the Committee from the full Board it was obvious to him that it had not been addressed to Mr. Schulz's or the Board's satisfaction; therefore, he advised, the two resolutions as presented reflected his effort to satisfy everyone involved.

Mr. Monroe asked whether Mr. Schulz would like to comment on the matter. Mr. Auffredou interjected that when Mr. Schulz concluded his remarks he would refer back to one provision that he and Mr. Schulz had agreed to include this morning. Mr. Schulz requested that they address that now. He said he agreed with Mr. Auffredou just before this meeting that there were very minor changes to be made to those. He requested that Mr. Auffredou convey what the changes were before they went any further.

With respect to the Civic, Citizenship and Government Standards issue, Mr. Auffredou said it was his understanding that any changes made were previously discussed with Mr. Schulz. He noted he had discussed with Mr. Schulz this morning one minor change with respect to the resolution relating to the Common Core State Standards. He continued, there was a Whereas clause that would be reinserted from the original draft that would read as follows: Whereas Article 1 Section 10 Clause 3 which is known as the Compact Clause prohibited New York State from entering into the Common Core related Smarter Balanced Assessment Consortium (SBAC) and the Partnership for Assessment of Readiness for College and Careers Consortium Interstate Compacts to which Congress has never consented". He said he believed this to be factually correct, as there was language in the original draft that said "and are thus Unconstitutional". He informed he and Mr. Schulz had agreed that language would not be included to which he asked Mr. Schulz if this was correct and Mr. Schulz replied affirmatively.

Mr. Schulz apprised to be clear the Common Core related resolution that was now before the Committee would include a Whereas clause added that stated that Congress had not approved the Multi-State Consortium that New York State was participating in but stopped short of saying that it was thus Unconstitutional to which Mr. Auffredou concurred.

Mr. Schulz stated it was true that he and Mr. Auffredou had two frank and very instructive meetings during which they had discussed these instant resolutions. He reported they had arrived at mutually agreeable language that would have the Warren County Board of Supervisors express to the State Board of Regents and others in Albany, New York a desire that the current Learning Standard for Civics, Citizenship and Government be reviewed and revised to ensure compliance with Section 801 and 802 of the State Education Law in order he would add that the children of the residents of the County be better prepared for their civic lives. He indicated that he and Mr. Auffredou had also arrived on mutually agreeable language that would have the Warren County Board of Supervisors respectfully request of the Legislator and the Governor consider adopting a law that would discontinue New York State's involvement with PARCC the multi-state assessment consortium that

was based on the Common core Standards. He said he was grateful for the time and attention Mr. Auffredou had given these two resolutions. He humbly entreated the Board to adopt them.

Motion was made by Mr. Girard, seconded by Mrs. Frasier and carried unanimously to approve the two resolutions as presented and the necessary resolutions were authorized for the August 21st Board Meeting.

Next on the agenda, Mr. Monroe apprised was a referral from the July 8, 2015 meeting of the Finance Committee requesting a resolution opposing New York State Assembly Bill No. A.6430 which represented an unfunded mandate. He said this was based on a presentation by the Sheriff regarding incarcerated pregnant inmates and the number of requirements that the Assembly Bill would impose on Local Government. He stated his understanding was the resolution was not that the County was opposed to the safety measures included in the Bill but rather opposing it as another unfunded mandate on Local Government.

Motion by Mr. Girard, seconded by Ms. Wood and carried unanimously to support a resolution opposing New York State Assembly Bill No. A.6430 as outlined above and the necessary resolution was authorized for the August 21st Board meeting.

The final item on the agenda Mr. Monroe stated, referred to the matter that was tabled by the Committee in regards to requesting the Governor and State Legislature to amend the New York State Vehicle and Traffic Law regarding designation of highways and travel by all terrain vehicles and referred it to the County Attorney requesting that he provide an opinion as to whether or not this would provide Towns with the authority to designate County and State roads as such. He informed this was regarding language in the existing Vehicle and Traffic Law Section 2405 which did not allow Towns and Counties the flexibility to open roads to adjoining trail systems and lands for a completion of trail systems unless it was otherwise impossible. He said the proposal from Fulton County requested the removal of the otherwise impossible language.

Mr. Auffredou apprised he would require some additional time to review this; however, he noted, he did not want that to reflect in anyway upon his ability to timely and thoroughly report on Items 1, 2 and 3 though.

Mr. Monroe remarked there had been a lot of discussion regarding this, as he was invited to attend a meeting at the Assembly. He said there was a Bill in the Senate that related to this, as well as a Bill in the Assembly that was somewhat related to it. He stated the Bill in the Senate would simply allow the registration of UTV's which were ATV's over 1,000 pounds. He reported the Environmental Groups wanted to prohibit ATV's any place on State forest preserve land in the Adirondacks. He continued, Assembly member Addie Russell had a meeting with all the Environmental Groups at the Assembly and invited him, as well as the President of the New York State Conservation Council and representatives from the Association of Adirondack Towns and Villages. He informed Assemblyman Russell had proposed a Bill that would permit the registration of UTV's but would ban ATV's any place in the Adirondacks to which his position on behalf of the Adirondack Park Local Government Review Board was they were opposed to that. He indicated they felt UTV's should be allowed to be registered but not on the condition that ATV's be banned every place in the Forest Preserve. He mentioned this referral specifically refers to Local Government having the authority to allow trail connections and whether you have to include that restriction that its otherwise impossible to have that connection unless it was permitted on Town roads.

Mr. Girard asked Mr. Auffredou if he would report back on that to which he replied affirmatively.

Concluding the agenda review Mr. Monroe asked whether anyone had any additional items they would like to discuss. Mr. Taylor stated he would like the following items added to the agenda for future consideration:

- 1) Discussion regarding the determination to increase fast food workers minimum wage to \$15 an hour and its impact on the economy; and
- 2) The State Tax Cap going below 1%.

In regards to the minimum wage increase for fast food workers to \$15 an hour, Mr. Taylor remarked he felt the County should inform the Governor and the State Legislature that the County opposed the wage increase, as he believed it would have a negative impact to the economy in this region. In reference to the rumors that the State tax cap was going to go below 1%, he apprised he was in favor of paying less taxes; however, he said, he felt it was very unrealistic for the State to set it at such a low percentage. He stated he felt if the State imposed this the roads would suffer. Ms. Wood pointed out that right now the projection at this point was .173% for this year which equated to \$4,000 for the Town of Thurman. She said it was making it more difficult to continue to operate. Mr. Monroe remarked he had not reviewed the details yet but what he felt was particularly troublesome about this was that it was 1/3rd of what the increase was in the State budget. He mentioned once consideration could be that the State could not set it at a rate of less than what they increased the State taxes otherwise it became obvious to him that the State Government was trying to squeeze local government out of existence. He explained that as the State imposed this tax cap while the State mandated amounts continued to increase at some point it became inevitable that the local governments would just be collecting money to forward onto the State mandated projects leaving no funding leftover for projects the residents would like to see completed. He added he felt this was a very important matter that would be included on the agenda for the next meeting.

In regards to minimum wage for fast food workers, Mr. Monroe advised he was aware that \$15 per hour was substantially more than what the Town of Chester paid to a number of their part-time workers. He added a number of these jobs with responsibility than a fast food worker were paid less than \$15 per hour.

As there was no further business to come before the Legislative & Rules Committee, on motion made by Mr. Sokol and seconded by Ms. Wood, Mr. Monroe adjourned the meeting at 12:21 p.m.

Respectfully submitted,
Charlene DiResta, Sr. Legislative Office Specialist
As transcribed by Sarah McLenithan, Deputy Clerk of the Board